

TEACHERS' RETIREMENT BOARD

REGULAR MEETING

SUBJECT: Update on State Legislation

ITEM NUMBER: 10a

ATTACHMENT(S): 5

ACTION: X

MEETING DATE: March 6, 2003

INFORMATION:

PRESENTER: Ed Derman

I. SUMMARY OF STATE LEGISLATION

Staff has prepared the attached analyses and recommended positions on the following measures for the Teachers' Retirement Board's (Board) consideration:

<u>Attachment</u>	<u>Bill Number</u>	<u>Author</u>	<u>Subject</u>
1	AB 91	Dutton	Redefines "spouse" for purposes of receiving survivor benefits
2	AB 106	Corbett	Redefines "spouse" for purposes of receiving survivor benefits
3	SB 102	Burton	Permits unused sick leave to count towards qualifying for benefit enhancements
4	Legislative Summary		

II. LEGISLATIVE PROPOSALS

Staff has also prepared the attached legislative proposal for the Board's consideration:

<u>Attachment</u>	<u>Title</u>	<u>Subject</u>
5	Legislative Proposal	Recalculating retirement benefits for part-time Community College instructors

Mr. Derman will provide a verbal update at the meeting.

Assembly Bill 91

Assembly Member Dutton (As amended 2/11/03)

Position:

Support, if amended (Staff Recommendation)

Proponents:

Author

Opponents:

None known

SUMMARY

Assembly Bill 91, for purposes of receiving survivor benefits under the Defined Benefit (DB) Program, defines a spouse to include a person who was married for less than 12 months if the member's death was accidental, and the accident that led to the member's death occurred after the marriage.

RELATED BILLS

AB 106 (Corbett) for purposes of receiving survivor benefits, defines a spouse as a person who was continuously married to the member for the period beginning prior to the injury or onset of the illness that resulted in the member's death.

HISTORY

Chapter 634, Statutes of 1996 (SB 2041—Hughes) for purposes of receiving survivor benefits, defines a spouse as a person who was married to the member for a continuous period beginning at least 12 months prior to the death of the member unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member's unborn child.

Chapter 933, Statutes of 1994 (AB 3171—Napolitano) for purposes of receiving survivor benefits, defines a spouse as a person who was married to the member at least 12 months prior to the death of the member unless a child is born to the union within the 12-month period or the surviving spouse is carrying the member's unborn child.

Chapter 1153, Statutes of 1974 (AB 4083—Bannai) among other things, revises the definition of the term "spouse".

CURRENT PRACTICE

The California State Teachers' Retirement System (CalSTRS) provides ongoing benefits to the surviving spouse of a member of the DB Program when the member dies while working in CalSTRS-covered service. These benefits vary depending upon the benefit coverage elected by the member, and in some cases, whether there are dependent children. If the member was under Coverage A (available to people who were DB Program members on or before October 15, 1992, and elected Coverage A), the surviving spouse receives a benefit equal to 40 percent of final compensation, plus 10 percent of final compensation for each dependent child, up to an additional 50 percent. If the surviving spouse has no dependent child, the surviving spouse can receive a return of contributions and interest, or a monthly allowance as if the member had worked until age 60, and then retired. Under Coverage B (available to all other members), the surviving spouse receives a monthly benefit based on an amount equal to 50 percent of what the member would have received if the member retired under Option 3 at the time of the member's death.

In order to be considered a surviving spouse, and for purposes of receiving an ongoing benefit, a person must have been "married to the member for a continuous period beginning at least 12 months prior to the death of the member unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member's unborn child." The mandatory 12-month waiting period was incorporated in current law as a system safeguard to prevent manipulation of the DB program through "death bed" marriages that result in a lifetime monthly family allowance or survivor benefit allowance.

Other state teachers' retirement systems currently have no similar law. Minnesota, Colorado and Texas, for example, consider the surviving spouse legally married at the member's death, regardless of that length of marriage, and is therefore entitled to receive full death benefits. The Florida Retirement System entitles the spouse to receive an allowance at age 60 that is based on the member's projected service and projected final compensation. The New York State and Local Retirement systems provide the surviving spouse no automatic rights to receive benefits.

DISCUSSION

Assembly Bill 91:

- Extends existing benefits to a surviving spouse who was married to the member for less than 12 months, if the member's death was accidental, and the accident that led to the member's death occurred after the marriage;
- Defines "accidental death" as death to a member who received bodily injuries through violent, external, or accidental means;
- Clarifies that the member's death must come as a direct result of the bodily injuries and independent of all other causes, within three months after the day on which the injuries were received;

- Stipulates that the twelve-month duration does not apply if at the time of the marriage the member could not have been expected to live for 12 months, due to a known illness.

The author believes that lifetime benefits should be provided to the surviving spouse of a newly married teacher as they are under other public retirement systems and private insurance programs. AB 91 provides an opportunity for surviving spouses to receive ongoing benefits from the DB Program if the member unexpectedly died during the initial year of marriage while continuing to restrict benefits that would be paid as a result of “death bed” marriages.

In order to determine whether a surviving spouse is eligible for ongoing benefits, the member’s physician would be required to provide certification stating that the member did not have a health condition prior to the marriage that would have resulted in his or her death within twelve months of the marriage. This is a current process for cases under Coverage A of the DB Program where a member was continuously incapacitated from the last day on the job through the date of death. In addition, depending upon the accident, previous medical records may be required to verify whether a member had any pre-diagnosed conditions that would have resulted in premature death, however, it is sometimes difficult to determine life expectancy on a retroactive basis after death occurs.

The bill’s provisions requiring the member to die within three month months of the accident does not address cases where members sustaining an accident become comatose or dependant on life support systems and later die more than three months after the date of the accident but less than twelve months after the date of their marriage. Therefore, CalSTRS staff recommends deleting the 3-month period from the bill. In addition, if the intent of the bill is to provide benefits to spouses who survive a member who died unexpectedly, staff recommends the bill be amended to extend the benefits to surviving spouses who die of an illness that was diagnosed after the marriage. AB 106 (Corbett) proposes similar changes in the definition of a spouse for purposes of receiving ongoing benefits and also addresses the onset of an illness that results in a member’s death.

CalSTRS has not maintained statistical data on previous cases that were denied based on the current 12-month period. However, CalSTRS staff estimates this bill will affect the families of approximately 18 to 24 members per year. By providing lifetime monthly allowances for these cases, a small amount of additional staff resources will be required as dependent children become adults and surviving spouses receive benefit estimates.

FISCAL IMPACT

Program Costs – The System Actuary estimates that the total present value cost of this proposal would be \$11 million. This is based on approximately 18-24 cases per year and an annual increase in teacher's salaries of 4.25 percent per year.

Administrative Costs – None

RECOMMENDATION

Support if amended to require the member to die within three months of the accident and to extend the benefit to surviving spouses of members who die from a previously undiagnosed illness. This legislation provides benefits for a surviving spouse who was married to the member for less than 12 months, and the member died due to an accidental death. This definition continues to protect the surviving spouse to receive ongoing benefits from the DB Program while retaining system safeguards preventing "death bed" marriages.

Assembly Bill 106

Assembly Member Corbett (As introduced 1/10/03)

Position:

Support, if amended (Staff recommendation)

Proponents:

Author

Opponents:

None known

SUMMARY

Assembly Bill 106, for purposes of receiving survivor benefits under the Defined (DB) Program, defines a spouse as a person who was continuously married to a member for the period beginning prior to an injury or onset of an illness that resulted in the member's death.

RELATED BILL

Assembly Bill 91 (Dutton); for purposes of receiving survivor benefits under the DB Program, defines a spouse as a person who was married for less than 12 months if the member's death was accidental, and the accident that led to the member's death occurred after the marriage.

HISTORY

Chapter 634, Statutes of 1996 (SB 2041—Hughes); for purposes of receiving survivor benefits, defines a spouse as a person who was married to the member for a continuous period beginning at least 12 months prior to the death of the member unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member's unborn child.

Chapter 933, Statutes of 1994 (AB 3171—Napolitano) for purposes of receiving survivor benefits, defines a spouse as a person who was married to the member at least 12 months prior to the death of the member unless a child is born to the union within the 12-month period or the surviving spouse is carrying the member's unborn child.

Chapter 1153, Statutes of 1974 (AB 4083—Bannai) among other things, revises the definition of the term "spouse".

CURRENT PRACTICE

The California State Teachers' Retirement System (CalSTRS) provides ongoing benefits to the surviving spouse of a member of the DB Program when the member dies while working in CalSTRS-covered service. These benefits vary depending upon the benefit coverage elected by the member. If the member was under Coverage A (available to people who were DB program

members on or before October 15, 1992, and elected Coverage A), the surviving spouse receives a benefit equal to 40 percent of final compensation, plus 10 percent of final compensation for each dependent child, up to an additional 50 percent. If the surviving spouse has no dependent child, the surviving spouse can receive a return of contributions and interest, or a monthly allowance as if the member had worked until age 60, and then retired. Under Coverage B (available to all other members), the surviving spouse receives a monthly benefit based on an amount equal to 50 percent of what the member would have received if the member retired under Option 3 at the time of the member's death.

In order to be considered a surviving spouse, and for purposes of receiving an ongoing benefit, a person must have been "continuously married to the member for the period beginning at least 12 months prior to the death of the member unless a child is born to the member and his or her spouse within the 12-month period or unless the spouse is carrying the member's unborn child, or for the period beginning prior to the occurrence of the injury or onset of the illness that resulted in death." The mandatory 12-month waiting period was incorporated in current law as a system safeguard to prevent "death bed" marriages that result in a lifetime monthly family allowance or survivor benefit allowance.

Other state teachers' retirement systems currently have no similar law. Minnesota, Colorado and Texas, for example, consider the surviving spouse legally married at the member's death, regardless of the length of marriage, and is therefore entitled to receive full death benefits. Florida Retirement System entitles the spouse at age 60, to receive an allowance that is based on the member's projected service and projected final compensation. The New York State and Local Retirement systems provide the surviving spouse no automatic rights to receive benefits.

DISCUSSION

AB 106 extends existing survivor benefits to a surviving spouse who was continuously married to the member for the period beginning prior to the injury or onset of an illness that resulted in the member's death.

The author believes that lifetime benefits should be provided to the surviving spouse who has been married for less than a year and the member dies, due to an injury or onset of an illness. AB 106 provides an opportunity for more surviving spouses to receive ongoing benefits from the DB Program while retaining system safeguards that prevent ongoing benefits being paid as a result of "death bed" marriages.

In order to determine whether a surviving spouse is eligible for ongoing benefits, the member's physician would be required to provide certification stating that the member could not reasonably have been expected to live for twelve months after the date of the marriage. This is currently required for cases under Coverage A of the DB Program where a member was continuously incapacitated from the last day on the job through the date of death. In addition, depending upon the accident, previous medical records may be required to verify whether a member had any pre-diagnosed conditions that would have resulted in premature death, however, it is sometimes difficult to determine life expectancy on a retroactive basis after death occurs.

The bill's provisions regarding the period prior to the occurrence of the injury do not address cases where members sustaining an accident result in a heart attack or stroke. The language is unclear whether an illness occurred before the marriage and later resulted in death. Additionally, it does not address deaths that result from secondary injury or illness caused by an earlier injury or illness prior to the marriage, or whether deaths that occurred as a result of health conditions that existed prior to the marriage such as heart attack or stroke would apply. It may be difficult for a surviving spouse to provide proof of the "onset of an illness." Therefore, CalSTRS staff recommends amending language in the bill to clarify the duration of the occurrence of the injury or diagnosis of the illness that resulted in death.

AB 91 (Dutton) proposes similar changes in the definition of a spouse for purposes of receiving ongoing benefits, but does not address the onset of an illness that results in a member's death.

CalSTRS has not maintained statistical data on previous cases that were denied based on the current 12-month period. However, CalSTRS staff estimates this bill will affect the families of approximately 18-24 members per year. By providing a lifetime monthly allowance for these cases, a small amount of additional staff resources will be required as dependent children become adults and surviving spouses receive benefit estimates.

FISCAL IMPACT

Benefit Program Costs – The System Actuary estimates that the total present value cost of this proposal would be \$11 million. This is based on approximately 18-24 cases per year and an annual increase in teacher's salaries of 4.25 percent per year.

Administrative Costs– None

RECOMMENDATION

Support, if amended to clarify the application of the bill for some accidental death or illness scenarios. This legislation would protect a spouse when a member dies suddenly, regardless of the duration of the marriage.

Senate Bill 102 **Senator Burton (As introduced 1/13/03)**

Position: **Sponsor, if amended (Staff Recommendation)**

Proponents: **CTA (Sponsor)**

Opponents: **None known**

SUMMARY

Senate Bill 102 includes up to 36 days of unused sick leave in determining eligibility for career-based enhancements to Defined Benefit (DB) Program allowances, such as a single year final compensation, the career factor and the longevity bonus.

HISTORY

Chapter 903, Statutes of 2002 (SB 1983—Soto) would have included up to .2 years of unused sick leave in determining eligibility for career-based enhancements to DB Program allowances, such as a single year final compensation, the career factor and the longevity bonus. That provision was deleted from the bill prior to its enactment.

Chapter 1028, Statutes of 2000 (AB 821—PER&SS) bases final compensation on the highest average annual compensation earnable by a member during a consecutive 12-month employment period rather than highest three consecutive years for members with at least 25 years of credited service.

Chapter 1029, Statutes of 2000 (AB 1933—Strom-Martin) pays a longevity bonus of \$200 to \$400 per month for members who retire after 2000 and accrue at least 30 years of credited service by 2011.

Chapter 1006, Statutes of 1998 (AB 1102—Knox) among other things, extends eligibility to receive credit at retirement for unused sick leave to members of California State Teachers' Retirement System (CalSTRS) DB Program who became members on or after July 1, 1980, and who retire on or after January 1, 1999.

CURRENT PRACTICE

Current law grants members of the DB Program additional service credit for accumulated unused sick leave at retirement. CalSTRS receives certification from the member's last employer, and determines this service credit by dividing the number of accumulated unused sick leave days by the number of base days (contracted days) for full-time service.

Additionally, members may be eligible for benefit enhancements under the following requirements:

- Members who retire with at least 30 years of service credit receive an additional 0.2 percent to their age factor, up to a maximum of 2.4 percent;
- Members who retire on or after January 1, 2001, with 25 years of service credit have their highest one-year compensation used in their retirement calculation;
- Members who retire on or after January 1, 2001, and accumulate at least 30 years of credited service by January 1, 2011, receive a longevity bonus that is added to the lifetime monthly retirement allowance. The member receives \$200 for 30 years of service; \$300 for 31 years; \$400 for 32 or more years.

Typically, only "earned" service credit qualifies members for the benefit enhancements. Currently, unused sick leave service credit cannot be used in determining eligibility for benefit enhancements.

DISCUSSION

SB 102 allows up to 36 days of unused sick leave to be used in determining eligibility for career-based enhancements including a one-year final compensation, the career factor and the longevity bonus.

A member who has less than 25 years of service credit, or a member who has less than 30 years of service credit is unable to apply unused sick leave credit that is otherwise used in their service credit calculation, towards eligibility for the one-year final compensation, career factor, or longevity bonus.

According to the author, this bill is designed to allow borderline cases to be eligible for benefit enhancements. Borderline cases are those members who don't have the full amount of required service credit to qualify for one-year final compensation (25.000), career factor or longevity bonus (30.000) at the end of the school. This bill would also have a positive impact on benefit recipients who don't have the required service credit at the time they apply for a benefit due to the delay in reporting employer information. The ability to use unused sick leave service credit provides a "cushion" of service credit for these retirees, as well as the borderline cases.

SB 102 specifies that 36 days of unused sick leave credit may be used to qualify for benefit enhancements, however, this creates an inequity among retiring DB Program members. Teachers with different contract days may result in a different calculation of their unused sick leave. As a result, one teacher could potentially receive a benefit enhancement, while another would not, even though both members have the same amount of unused sick leave days at retirement. Therefore, CalSTRS staff recommends using a percentage of a year rather than days to simplify implementation because that is already in the database, and would be consistent with the bill the Board sponsored last year.

Benefit enhancements were intended to reward members who extend their career. Allowing a member to apply up to .200 of a year of unused regular sick leave service credit would ensure a more equitable calculation for all DB Program members. This bill would only apply to members who are within 0.2 years of qualifying for a benefit enhancement.

FISCAL IMPACT

Program Cost– The System Actuary estimates that the total present value cost of authorizing the use of up to 36 days of unused sick leave to qualify for enhanced benefits would be \$58 million. The annual revenue needed to support this proposal is \$5 million, beginning in fiscal year 2003-04.

Administrative Costs– The one-time cost of the required changes to the System's database is expected to be between \$200,000 and \$300, 000. Absorbing this cost may have a detrimental impact on CalSTRS ability to provide services to its members.

RECOMMENDATION

Sponsor, if amended to change the maximum amount of unused sick leave to .200 years of service credit, and to appropriate \$250,000 for the one-time implementation costs. This legislation would provide reward members who were just shy of earning career-based benefit enhancements with an opportunity to do so, if they worked additional service by not using up their sick leave.

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM
LEGISLATIVE SUMMARY – REGULAR BOARD
2003-2004 Regular Session – February 18, 2003

<u>BILL NO.</u>	<u>INFORMATION</u>
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AB 91

AUTHOR: Dutton
TITLE: Surviving spouse benefits
AMENDED: 2/11/03
LOCATION: Assembly PER&SS
BOARD POSITION: Support, if amended (Staff recommendation)

SUMMARY: Extends existing benefits to survivors' spouses who were married less than 12 months, if the member's death was accidental.

COSTS: Benefit program – Estimated total cost of \$11 million
Administrative – Minor, absorbable costs

P – None known

O – None known

AB 106

AUTHOR: Corbett
TITLE: Surviving spouse benefits
LOCATION: Assembly PER&SS
BOARD POSITION: Support, if amended (Staff recommendation)

SUMMARY: Extends existing benefits to survivors' spouses who were married less than 12 months, if the member's death was due to an injury or illness.

COSTS: Benefit program – Estimated total cost of \$11 million
Administrative – Minor, absorbable costs

P – None known

O – None known

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM
LEGISLATIVE SUMMARY – REGULAR BOARD
2003-2004 Regular Session – February 18, 2003

<u>BILL NO.</u>	<u>INFORMATION</u>
AB 205	<p>AUTHOR: Goldberg TITLE: Spousal Benefits for Domestic Partners LOCATION: Assembly Judiciary BOARD POSITION: Pending</p> <p>SUMMARY: Extends the rights and duties of marriage spouses to persons registered as domestic partners on and after January 1, 2005.</p> <p>COSTS: Benefit program – To be determined Administrative – To be determined</p> <p>P – None known O – None known</p>
AB 265	<p>AUTHOR: Mullin TITLE: 12-Month Final Compensation LOCATION: Assembly PER&SS BOARD POSITION: Pending</p> <p>SUMMARY: Defines final compensation for all members of the DB Program as the highest average annual compensation earnable by the member during 12 consecutive months.</p> <p>COSTS: Benefit program – \$1.1 billion over 30 years, payable at \$127 million annually Administrative – To be determined</p> <p>P – None known O – None known</p>

CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM
LEGISLATIVE SUMMARY – REGULAR BOARD
2003-2004 Regular Session – February 18, 2003

<u>BILL NO.</u>	<u>INFORMATION</u>
SB 102	<p>AUTHOR: Burton TITLE: Unused Sick Leave for Benefit Enhancements LOCATION: Senate PE&R BOARD POSITION: Support, if amended (Staff recommendation)</p> <p>SUMMARY: Allows up to 36 days of unused sick leave to count towards qualifying for one-year final compensation, longevity bonus and other benefit enhancements.</p> <p>COSTS: Benefit program – \$58 million over 30 years Administrative – Pending</p> <p>P – None known O – None known</p>
SB 147	<p>AUTHOR: Torlakson TITLE: Health Security Accounts LOCATION: Not yet assigned BOARD POSITION: Pending</p> <p>SUMMARY: Requires the Board to establish and administer by July 1, 2005, a Health Security Account Program for school employees who retired or have reached normal retirement age, in which the employer contributes funds to individual nominal accounts while the person is employed.</p> <p>COSTS: Benefit program – To be determined Administrative – To be determined</p> <p>P – None known O – None known</p>

LEGEND OF ABBREVIATIONS

P = PROPONENTS O = OPPONENTS

ABBREVIATION

ORGANIZATION

AARP	American Association of Retired Persons, State Legislative Committee
AALA	Associated Administrators of Los Angeles
ACCCA	Association of California Community College Administrators
ACSA	Association of California School Administrators
AFSCME	American Federation of State, County and Municipal Employees
AFT	American Federation of Teachers
AGENCY	State and Consumer Services Agency
A.R.E.	Association of Retirees for Equity
ART	Association of Retired Teachers
BOE	Board of Equalization
BOG	Board of Governors, California Community Colleges
Cal-Tax	California Taxpayers Association
CalPERS	California Public Employees' Retirement System
CalSTRS	California State Teachers' Retirement System
CALPIRG	California Public Interest Research Group
CASBO	California Association of School Business Officials
CCA	Community College Association
CCAE	California Council for Adult Education
CCC	California Community Colleges
CCD	Community College District
CCPOA	California Correctional Peace Officers Association
CDE	California Department of Education
CFA	California Faculty Association
CFT	California Federation of Teachers
CNEC	California Network of Educational Charters
CPCA	California Police Chiefs' Association
CPFFA	California Professional Firefighters Association
CPIL	Center for Public Interest Law
CRTA	California Retired Teachers Association
CSAC	California State Association of Counties
CSBA	California School Boards Association
CSEA	California School Employees Association
CSL	California Senior Legislature
CSU	California State University
CTA	California Teachers Association
DOE	Department of Education
DOF	Department of Finance
DGS	Department of General Services
DPA	Department of Personnel Administration

LEGEND OF ABBREVIATIONS

P = PROPONENTS O = OPPONENTS

ABBREVIATION

ORGANIZATION

EGTRRA	Economic Growth and Tax Relief Reconciliation Act of 2001
FACCC	Faculty Association of California Community Colleges
F.A.I.R.	Faculty Attempting to Improve Retirement
FCPHE	Faculty Coalition for Public Higher Education
FTB	Franchise Tax Board
LACCD	Los Angeles Community College District
LADSA	Los Angeles Deputy Sheriffs' Association
LAUSD	Los Angeles Unified School District
OCDE	Orange County Department of Education
PARS	Public Agency Retirement System
PERF	Public Employees Retirement Fund
PORAC	Peace Officers Research Association of California
RPEA	Retired Public Employees Association
SACRS	State Association of County Retirement Systems
SBMA	Supplemental Benefit Maintenance Account
SCSA	State and Consumer Services Agency
SDCOE	San Diego County Office of Education
SEIU	Service Employees International Union
SLC	State Lands Commission
SSC	School Services of California
SSDA	Small School Districts' Association
START	State Teachers' Automation Redesign Team
TRB	Teachers' Retirement Board
TRF	Teachers' Retirement Fund
TRL	Teachers' Retirement Law
UTLA	United Teachers of Los Angeles

STANDING COMMITTEES OF THE ASSEMBLY/SENATE

Assembly PER&SS	Assembly Public Employees, Retirement and Social Security Committee
Senate B, C&IT	Senate Banking, Commerce and International Trade Committee
Senate E, U & C	Senate Energy, Utilities and Communication Committee
Senate PE&R	Senate Public Employment and Retirement Committee

**CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM
REQUEST FOR APPROVAL OF PROPOSED LEGISLATION**

BRANCH/DIVISION/UNIT:

External Affairs & Program Development, Legislative Services Office

PROPOSAL TITLE:

Recalculating Retirement Benefits for Part-time Community College Instructors

PROBLEM:

Members of the Defined Benefit (DB) Program accrue service credit based on the ratio of earned compensation to the compensation earnable, which is the compensation that would be earned if the member worked in that position on a full-time basis. Prior to July 1, 1996, the compensation earnable for a part-time community college instructor was based on the hourly rate of pay multiplied by 1,050 hours. Although 1,050 hours represented the amount of work that a full-time community college faculty member might work in a year, it included activities, such as office hours and paid preparation time, such a standard might not be applicable to a part-time instructor, who was only paid for instructional hours. The maximum amount of instructional hours a full-time faculty member might work generally equals 525 hours per school year. As a result, a part-time instructor who worked 60 percent of a full instructional load, or 315 hours, would earn .300 years of credited service (315/1,050) rather than .600 years of credited service. Consequently, members with part-time employment were not accruing credited service as quickly as they should be, and therefore not qualifying, or vesting, for DB program benefits.

Beginning in July 1996, changes were made to the definition of full-time equivalent (FTE), the basis for determining compensation earnable for part-time community college instructors and adult education faculty. Currently, the FTE for part-time instructors is a minimum of 525 hours and the FTE for adult education faculty is a minimum of 875 hours. By reducing the FTE from 1,050 hours to a level more appropriate for the specific employment, members would accrue credited service at a more appropriate rate. Because final compensation is based on the member's compensation earnable, and the compensation earnable is based on the FTE, reducing the FTE will reduce the member's final compensation. If the final compensation was based on employment after July 1, 1996, it would be based on a lower FTE and therefore would itself be lower. As a result, a member whose career was largely based on a high FTE but whose final compensation is based on a low FTE would receive a lower benefit than a member whose FTE was the same through the member's entire career.

This exposes California State Teachers' Retirement System (CalSTRS) to potential litigation because the reduction in FTE, although intended to provide a more appropriate accrual of credited service and determination of final compensation, had the unintended consequence of reducing some member's benefits below the amount the member would otherwise have received. CalSTRS cannot address this issue administratively, because the Constitution requires it administer the law, even if unconstitutional, unless an appellate court orders otherwise. Consequently, to address this potential impairment issue, corrective legislation is required.

PROPOSED SOLUTION:

Identify each DB Program member who was employed by a community college district prior to July 1, 1996 and retired on or after July 1, 1996. Calculate each member's compensation earnable and service credit using the 1050-hour FTE in effect prior to July 1, 1996 and compare that calculation to the benefit based on the FTE actually reported by the employer. Under this proposal, whichever retirement benefit is greater will be granted to the retired member.

Recalculating retirement benefits for this group of part-time instructors provides an accurate and fair retirement benefit for those part-time instructors who were caught in the transition of the policy change by using the FTE that is currently in place. In providing a fair and accurate retirement benefit, CalSTRS is complying with its mission to provide a secure financial future for California's educators.

IMPACT ON CURRENT PRACTICE:

This recalculation of benefits will be for all members who became members before 1996 and are employed part-time by community colleges. Those members who retire in the future will also have their benefits calculated using both the FTE as it was in 1996 (1,050 hours), compared to the benefit that they would receive under the current FTE established by their employing district.

FISCAL IMPACT:

Program Costs/Savings: Assuming that litigation to contest the impact of the recent legislation on member benefits would be successful and relief would be ordered by the court, this proposal would not result in any additional benefit costs to CalSTRS.

Administrative Costs/Savings: The estimated total one-time cost to recalculate the retirement allowance for 353 retired part-time Community College instructors who retired after July 1, 1996 is approximately \$75,000 (1 PY). Additionally, ongoing resources of \$75,000 (1 PY) per year will be required to calculate and determine the correct retirement allowance for 18,100 part-time Community College instructors who began employment prior to July 1, 1996 and will retire in the future.

PRO/CON ARGUMENTS:Pros

1. Addresses a problem that otherwise might subject CalSTRS to successful litigation by affected members

Cons

1. Other members might voice concerns and/or complaints that a particular group is receiving preferential treatment;
2. Results in an increased workload for CalSTRS staff and requires additional resources to implement.

CONSEQUENCES IF PROPOSED SOLUTION IS NOT PURSUED:

Potential litigation against CalSTRS that could result in a court-imposed requirement to make a similar benefit comparison.

PREPARER / APPROVALS:

Prepared by Julie Gallego Phone 916-229-3730

Approved by _____ Date _____

DCEO _____ Date _____